

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

<b>PFIZER INC.,</b>	)	
	)	
<b>Plaintiff and</b>	)	<b>2:02-cv-1628</b>
<b>Counterclaim-Defendant,</b>	)	
<b>v.</b>	)	
	)	
<b>MYLAN LABORATORIES INC. and</b>	)	
<b>MYLAN PHARMACEUTICALS, INC.,</b>	)	
	)	
<b>Defendants and</b>	)	
<b>Counterclaim-Plaintiffs.</b>	)	

**ORDER OF COURT**

AND NOW, this 10<sup>th</sup> day of November, 2005, upon consideration of MYLAN'S MOTION FOR LEAVE TO FILE A MOTION FOR PARTIAL SUMMARY JUDGMENT OF NONINFRINGEMENT OF CLAIMS 4 AND 5 OF U.S. PATENT NO. 4,879,303 (*Document No. 139*), PLAINTIFF'S MEMORANDUM IN OPPOSITION TO DEFENDANTS' MOTION FOR LEAVE TO FILE A LATE SUMMARY JUDGMENT MOTION (*Sealed Document No. 148*) and MYLAN'S MOTION FOR LEAVE OF COURT TO FILE DOCUMENTS UNDER SEAL in connection with its Reply Memorandum in Support of its Motion for Leave to File a Motion for Partial Summary Judgment of Noninfringement of Claims 4 and 5 of U.S. Patent No. 4,879,303 (*Document No. 150*), and it appearing that this case was filed over three years ago in September, 2002, with summary judgment motions of the parties due and filed by August, 2004, which have now been ruled upon, and all pretrial filings are of record with the case ready for trial and Mylan's proposed motion will further delay trial on the merits of the issues,

NOW THEREFORE, it is **ORDERED, ADJUDGED and DECREED** that Mylan's MOTION FOR LEAVE TO FILE A MOTION FOR PARTIAL SUMMARY JUDGMENT OF NONINFRINGEMENT OF CLAIMS 4 AND 5 OF U.S. PATENT NO. 4,879,303 (*Document No. 139*) and MYLAN'S MOTION FOR LEAVE OF COURT TO FILE UNDER SEAL (*Document No. 150*) are **DENIED**.

Concomitantly upon consideration of PFIZER'S MOTION FOR A CONFERENCE TO SET A TRIAL DATE (*Document No. 135*) and MYLAN'S RESPONSE TO PFIZER'S MOTION FOR A CONFERENCE TO SET A TRIAL DATE (*Document No. 138*), and it appearing that the scheduling of a firm trial date may well be advisable depending upon the trial status of other cases in which issues relevant to this action may be determined, therefore PFIZER'S MOTION FOR A CONFERENCE TO SET A TRIAL DATE is **GRANTED** and a pretrial status conference is scheduled on **Friday, December 9, 2005, at 1:00 P.M.** in Courtroom 6C, 6<sup>th</sup> Floor, U.S. Courthouse, 700 Grant Street, Pittsburgh, Pennsylvania 15219.

BY THE COURT:

s/ Terrence F. McVerry  
United States District Court Judge

cc:

**PFIZER, INC.**

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